

ORIGINAL

Decision No. 67085

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SIDNEY NEVELL,
 Complainant,
 vs.
 GENERAL TELEPHONE COMPANY
 OF CALIFORNIA,
 Defendant.

Case No. 7717

James A. Watkins, for complainant.

A. M. Hart and Donald J. Duckett,
 by Donald Duckett, for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 3603 Pacific Coast Highway, Torrance, California. Interim restoration was ordered September 24, 1963, pending further order (Decision No. 66046).

Defendant's answer alleges that on or about September 11, 1963, it had reasonable cause to believe that service to the Retreat Restaurant, 3603 Pacific Coast Highway, WALTERIA, California, under number FR 50710 was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore defendant was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on February 26, 1964.

By letter of September 12, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number FR 50710 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 1). Defendant notified the subscriber of disconnection (Exhibit 2). Exhibits Nos. 1 and 2 are attached to defendant's answer on file.

Complainant testified that he is now, and has been for nine years, owner and operator of the "Retreat", a neighborhood restaurant and bar, and has necessity for telephone service to order supplies and merchandise and for safety in case of fire and for customers' use and he suffered business losses of over \$200 per day gross income while the telephone was disconnected.

Complainant further testified that he was charged with violation of Sections 337a and 182 of the Penal Code and found guilty, but that the matter is being appealed by him.

Complainant further testified that he did not and will not use the telephone for any unlawful purpose.

There was no appearance by or testimony from any law enforcement agency.

We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephone was used for any illegal purpose.

Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 66046, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of APRIL, 1964.

William A. Bennett
President

George T. Traver
Frederick B. Holoboff
Commissioners

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Carroll